

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH BUTTERCASE,

Defendant.

**8:12CR425**

**ORDER**

This matter is before the Court on Defendant's notice regarding exhaustion. [Filing No. 158](#). This Court previously ordered the Defendant to notify the Court as to his exhaustion requirement concerning his motion for compassionate release. [Filing No. 156](#). In response, Defendant argues that he is still in the custody of the Omaha Corrections Center, and he has no one at the Bureau of Prisons who is now supervising him. [Filing No. 158](#). That will not occur until his state sentence is completed. Thus, he asks the Court to waive the exhaustion requirement. The Court finds that under these circumstances, waiver of the exhaustion requirement is appropriate. See, [Ross v. Blake](#), 578 U.S. 632, 642 (2016) ("An inmate . . . must exhaust available remedies, but need not exhaust unavailable ones."); [United States v. Arreola-Bretado](#), 445 F. Supp. 3d 1154, 1156–57 (S.D. Cal. 2020); and [Singh v. Ashcroft](#), 362 F.3d 1164, 1169 (9th Cir. 2004) ("It is axiomatic that one need not exhaust administrative remedies that would be futile or impossible to exhaust.")).

THEREFORE, IT IS ORDERED THAT the Court waives the exhaustion requirement in this case. All other timelines remain in effect.

Dated this 14th day of July, 2025.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge